

## **CORRECTED FISCAL NOTE**

### **SB 3418 - HB 3480**

March 23, 2004

**SUMMARY OF BILL:** Codifies the current procedures of the Department of Revenue and does the following:

- Section 1) Permanently repeals the professional privilege tax exemption for state employees.
- Section 2) Changes the percentage of sales tax distributions to total 100%. Currently, the total of all allocations within the code totals 100.067%.
- Sections 3 & 4) Delete from the wrong section of code and then replace in the correct section the 9% reduction in state shared funds from local governments.
- Section 5) Provides a definition for "affiliated business entity" for business tax purposes.
- Section 6) Clarify the definition of service for business tax purposes to indicate that "services for profit or monetary gain does not include services rendered by a person for an affiliated business entity, provided that the services are accounted for as allocations of cost incurred in providing the service without any markup whatsoever".

### **ESTIMATED FISCAL IMPACT:**

On March 5, 2004 we issued a fiscal note on this bill indicating a *minimal fiscal impact*. Based upon additional information provided by the Department of Revenue, the estimated fiscal impact of the bill is:

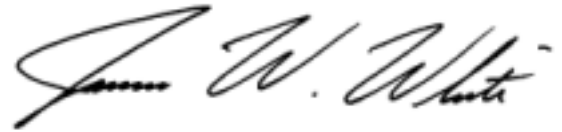
#### **(Corrected Fiscal Note)**

**Other Fiscal Impact - In FY02-03, two bills were passed which repealed the occupational privilege tax exemption for state employees. The first, contained in Public Chapter 355 was effective June 16, 2003. The second, contained in Public Chapter 418 was effective June 24, 2003. Both were repealed September 1, 2003. As a result, the exemption is still in place. Between June 16, 2003 and September 1, 2003, during the time the exemption was repealed, the Department of Revenue collected \$1,091,800 from state employees subject to the occupational privilege tax. This was paid by the state pursuant to the language of TCA 67-4-1709 which allows any employer to pay the tax on behalf of the employee. This is a permissive act on the part of an employer, not a requirement. The payment for state employees by the state is authorized in the FY04-05 appropriations bill. Additionally,**

**based upon principles of federal constitutional law, the state cannot exempt state employees without exempting federal employees. According to the Department of Revenue, if the exemption is not repealed by June 1, 2004, federal employees would become exempt from the occupational privilege tax. This would result in a decrease in state revenues of approximately \$1,150,000.**

**CERTIFICATION:**

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in cursive script, reading "James W. White".

James W. White, Executive Director